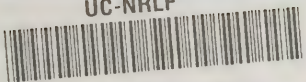


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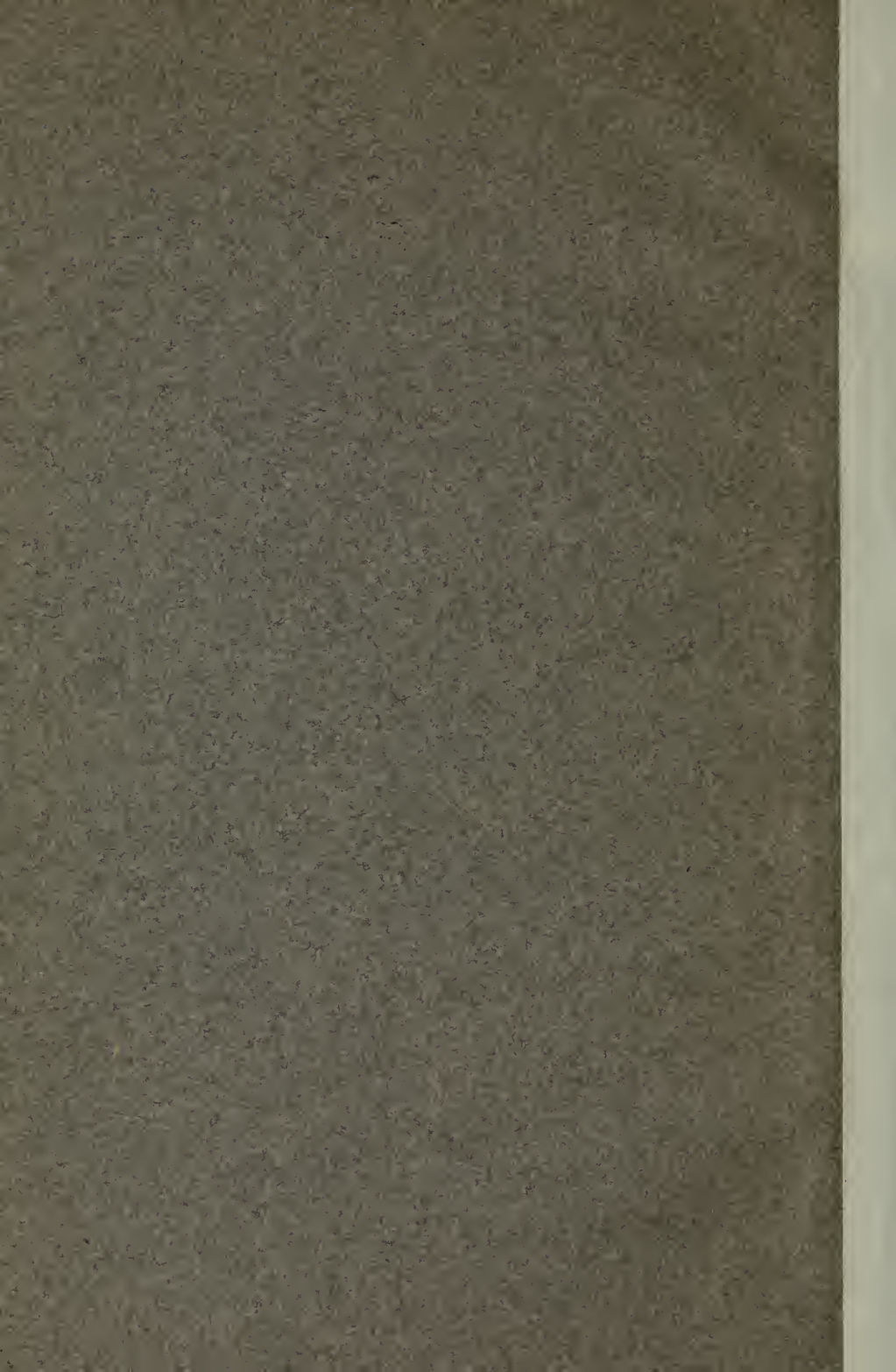


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The Hart Schaffner & Marx  
Labor Agreement



# The Hart Schaffner & Marx Labor Agreement

Being a Compilation and Codification of the Agreements  
of 1911, 1913 and 1916 and decisions rendered  
by the Board of Arbitration

*By*

J. E. Williams

Chairman of Board of Arbitration

Sidney Hillman

President Amalgamated Clothing Workers of America,  
formerly chief deputy for the union

Earl Dean Howard

Director of Labor for Hart Schaffner & Marx

CHICAGO

1916



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ADMINISTRATIVE ORGANIZATION OF  
THE HART SCHAFFNER & MARX  
LABOR AGREEMENT

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# The Hart Schaffner & Marx Labor Agreement

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## Preamble

By MR. J. E. WILLIAMS,  
Chairman of The Board of Arbitration

The parties whose names are signed hereto purpose entering into an agreement for collective bargaining with the intention of agreeing on wage and working conditions and to provide a method for adjusting any differences that may arise during the term of this contract.

In order that those who have to interpret this instrument may have some guide as to the intentions and expectations of the parties when entering into this compact, they herewith make record of their spirit and purpose, their hope and expectations, so far as they are now able to forecast or state them.

On the part of the employer it is the intention and expectation that this compact of peace will result in the establishment and maintenance of a high order of discipline and efficiency by the willing co-operation of union and workers rather than by the old method of surveillance and coercion; that by the exercise of this discipline all stoppages and interruptions of work, and all wilful violations of rules will cease; that good standards of workmanship and conduct will be maintained and a proper quantity, quality and cost of production will be assured; and that out of its operation will issue such co-operation and good will between employers, foremen, union and workers as will prevent misunderstanding and friction and make for good team work, good business, mutual advantage and mutual respect.

On the part of the union it is the intention and expectation that this compact will, with the co-operation of the employer, operate in such a way as to maintain, strengthen, and solidify its organization, so that it may be made strong enough, and efficient enough, to

co-operate as contemplated in the preceding paragraph; and also that it may be strong enough to command the respect of the employer without being forced to resort to militant or unfriendly measures.

On the part of the workers it is the intention and expectation that they pass from the status of wage servants, with no claim on the employer save his economic need, to that of self-respecting parties to an agreement which they have had an equal part with him in making; that this status gives them an assurance of fair and just treatment and protects them against injustice or oppression of those who may have been placed in authority over them; that they will have recourse to a court, in the creation of which their votes were equally potent with that of the employer, in which all their grievances may be heard, and all their claims adjudicated; that all changes during the life of the pact shall be subject to the approval of an impartial tribunal, and that wages and working conditions shall not fall below the level provided for in the agreement.

The parties to this pact realize that the interests sought to be reconciled herein will tend to pull apart, but they enter it in the faith that by the exercise of the co-operative and constructive spirit it will be possible to bring and keep them together. This will involve as an indispensable pre-requisite the total suppression of the militant spirit by both parties and the development of reason instead of force as the rule of action. It will require also mutual consideration and concession, a willingness on the part of each party to regard and serve the interests of the other, so far as it can be done without too great a sacrifice of principle or interest. With this attitude assured it is believed no differences can arise which the joint tribunal cannot mediate and resolve in the interest of co-operation and harmony.

## SECTION I

### **Administration**

This agreement is entered into between Hart Schaffner & Marx, a corporation, and the Amalgamated Clothing Workers of America, and is effective from May 1st, 1916 to April 30th, 1919.

### **Officers of the Agreement**

The administration of this agreement is vested in a Board of Arbitration and a Trade Board, together with such deputies, officials

and representatives of the parties hereto as are now or hereafter may be appointed for that purpose, whose duties and powers are hereinafter described.

## **Board of Arbitration**

The Board of Arbitration shall have full and final jurisdiction over all matters arising under this agreement and its decisions thereupon shall be conclusive.

It shall consist of three members, one of whom shall be chosen by the union, one by the company, and the third shall be the mutual choice of both parties hereto and shall be the chairman of the Board. It is agreed that the board as constituted under the old agreement shall be continued during the present agreement, William O. Thompson being the choice of the union, Carl Meyer, the choice of the company and J. E. Williams, chairman, being chosen by agreement of both parties.

It shall be the duty of the Board to investigate, and to mediate or adjudicate all matters that are brought before it and to do all in its power to insure the successful working of the agreement. In reaching its decisions the Board is expected to have regard to the general principles of the agreement; the spirit and intent, expressed or implied, of the parties thereto; and, especially, the necessity of making the instrument workable, and adaptable to varying needs and conditions, while conserving as fully as possible the essential interests of the parties involved.

The line of practice already developed by the Board shall be continued. This contemplates that questions of fact and testimony shall in the main be considered by the Trade Board while the Board of Arbitration will concern itself mainly with questions of principle and the application of the agreement to new issues as they arise. But this is not to be construed as limiting the power of the Board, which is broad enough to make it the judge of facts as well as principle when necessary, and to deal with any question that may arise whose disposition is essential to the successful working of the agreement.

By agreement between the chief deputies, cases may be heard and decided by the chairman of the Board alone.

## **Emergency Powers**

If there shall be a general change in wages or hours in the clothing industry, which shall be sufficiently permanent to warrant the belief that the change is not temporary, then the Board shall have power to determine whether such change is of so extraordinary a nature as to justify a consideration of the question of making a change in the present agreement, and, if so, then the Board shall have power to make such changes in wages or hours as in its judgment shall be proper.

## **Trade Board**

The Trade Board is the primary board for adjusting grievances, and shall have original jurisdiction over all matters arising under this agreement and the decisions relating thereto, and shall consider and dispose of all such matters when regularly brought before it, subject to such rules of practice and procedure as are now or may be hereafter established.

The Board shall consist of eleven members, all of whom excepting the chairman, shall be employes of Hart Schaffner & Marx. Five members shall be chosen by the company, and five by the union, and it is understood that these shall be selected in such manner as to be representative of the various departments—cutting and trimming, coat, vest and trousers.

The Board shall be presided over by a chairman who shall represent the mutual interests of both parties hereto, and especially the interest of the successful working of this agreement. He shall preside at meetings of the Board, assist in investigation of complaints, endeavor to mediate conflicting interests, and, in case of disagreement, shall cast the deciding vote on questions before the Board. He shall also act as umpire on the cutting room commission, and perform such other duties as may be required of him by the agreement or by the Board of Arbitration.

The chairman shall hold office during the term of the agreement, and in case of death, resignation, or inability to act, the vacancy shall be filled by the Board of Arbitration.

It is especially agreed that James Mullenbach, chairman under the former agreement, shall be retained under the present agreement.

Meetings of the Board shall be held whenever necessary at

such times as the chairman shall direct. Whenever an authorized representative of both parties is present, it shall be considered a quorum. Each party is privileged to substitute an alternate in place of the regular member whenever they so desire. Should either side, after reasonable notice, fail to send a representative to sit on the Trade Board, then the chairman may proceed the same as if both parties were present.

Members of the Board shall be certified in writing to the chairman by the Joint Board of Hart Schaffner & Marx, and the proper official of the company and any member, other than the chairman, may be removed and replaced by the power appointing him.

## Deputies

The deputies are the officers having direct charge of the execution of the provisions of this agreement in the interest of their respective principals. Each of the parties hereto shall have a sufficient number of deputies to properly take care of the work necessary to be done to keep the docket from being clogged with complaints, and to insure an efficient working of the agreement. They shall have power to investigate, mediate, and adjust complaints, and settlements made by the deputies of the parties in dispute shall be legally binding on their principals. In case of appeal to the Trade Board or Board of Arbitration the deputies may represent their respective principals before these Boards, and shall have power to summon and examine witnesses, to present testimony or evidence, and do such other things as may be necessary to place their case properly before the trial body, and such body shall see to it that they be given adequate opportunity and facility for such presentation, subject to the usual rules of procedure.

One of the deputies on each side shall be known as the chief deputy, and the statement of the chief deputy shall be regarded as an authoritative presentation of the position of his principal in any matter in controversy. Unless reversed or modified by either of the Trial Boards the agreement of the chief deputies in all matters over which they or their principals have authority shall be observed by all parties.

The union deputy shall have access to any shop or factory for the purpose of making investigations of complaints; but he shall in all

cases be accompanied by the representative of the employer. Provided, that the latter may at his option waive his right to accompany him, also that in minor matters where convenience or expedition may be served the union deputy may call out the shop chairman to obtain information without such waiver.

The deputies shall be available to give their duties prompt and adequate attention, and shall be subject to the direction of the Trade Board in all matters relating to the administration of this agreement.

### **Qualifications of Deputies**

Each deputy, in order to qualify for duty, must have a commission signed by the proper official representing the union or the company, and said commission must be countersigned by the chairman of the Trade Board. Deputies must be either employes of Hart Schaffner & Marx, or must be persons who are connected with the Joint Board of Hart Schaffner & Marx.

### **Shop Representative**

The union shall have in each shop a duly accredited representative authorized by the Joint Board who shall be recognized as the officer of the union having charge of complaints and organization matters within the shop. He shall be empowered to receive complaints and be given sufficient opportunity and range of action to enable him to make proper inquiry concerning them. When necessary for the shop representative to leave his place to investigate complaints the foreman may, if he deems it necessary, ask to be informed of the purpose of his movements, and the representative shall comply with his request.

It is understood the shop representative shall be entitled to collect dues and perform such other duties as may be imposed on him by the union, provided they be performed in such manner as not to interfere with shop discipline and efficiency.

It is expected that he will represent the co-operative spirit of the agreement in the shop, and shall be the leader in promoting that amity and spirit of good will which it is the purpose of this instrument to establish.

The co-operative spirit enjoined on the shop representative in the foregoing paragraph shall be expected in equal degree from



the shop superintendent, who shall be expected to contribute his best efforts to promote harmony and good will in the shops.

## SECTION II

### **Procedure**

#### **When Grievances Arise**

When a grievance arises on the floor of the shop, the complainant shall report it with reasonable promptness to the shop representative, who shall present it without undue delay to the shop superintendent. These two may discuss the complaint in a judicial temper, and may endeavor to agree to an adjustment. It is understood, however, that they are not a trial board, and it is not expected that they shall argue or dispute over the case. In the event that the shop representative is not satisfied with the action of the superintendent, he may promptly report the matter to his deputy, with such information as will enable him to deal advisedly with the case.

Failure to comply with these provisions for the regulation of shop transactions shall subject the offender to discipline by the Trade Board.

Informal oral adjustments made by shop officials are subject to revision by the Trade Board, and are not binding on their principals unless ratified by the chief deputies.

#### **Adjustment by Deputies**

When the shop officers report a disputed complaint to their respective deputies, they shall give it such investigation as its nature or importance demands, either by visitation to the shop or by the taking of testimony, and shall make an earnest endeavor to reach a settlement that will be just and satisfactory to all the parties in dispute.

#### **Disagreement by Deputies**

In the event of a failure to agree on an adjustment, the deputies shall certify the case for trial to the Trade Board, agreeing on a written statement of facts if possible. In certifying such disagreement the deputy appealing to the Board shall file a statement stating

specifically the nature of the complaint alleged with the Trade Board, and shall furnish a copy to the representative of the dissenting party who shall have, at least, twenty-four hours to prepare his answer, unless otherwise agreed on; provided, that by direction of the chairman of the Trade Board emergency cases may be brought to trial at once. Where no statement has been filed in writing within a reasonable time after disagreement of the deputies, it may be assumed that the disagreement no longer exists, and the case may be considered settled.

### **Docket and Records**

The chairman of the Trade Board shall keep a docket in which all cases shall be entered in the order of their arising. Unless otherwise directed by the chairman, cases shall be heard in the order of their filing. Duplicate records shall be made by the Board, one copy of which shall be retained by the Chairman, and one given to the chief deputy for the union. Such records shall contain all complaints filed with the Board; orders or decisions of the Board, or of the deputies or of any committee; calendars of pending cases, and such other matter as the Trade Board may order placed upon the records.

### **Direct Complaints**

Complaints may be made directly by either party, without the intervention of a shop representative, whenever it desires to avail itself of the protection of the agreement; but a statement of the facts and grounds of such complaints must be filed in writing as hereinbefore provided. Unless written notice has been filed, it may be presumed, officially, that no complaint exists.

### **Decisions, Appeals, Etc.**

All decisions of the Trade Board shall be in writing, and copies given to the representatives of each party. Should either party desire to appeal from the decision, it shall file with the Board a notice of its intention so to do within ten days of the date of the decision. Or if either party desires an amendment or modification of the decision, or a stay of execution pending the appeal, it may make a motion in writing to that effect, and the chairman shall use his

discretion in granting it. In certifying the case to the Board of Arbitration, the chairman shall make a summary of the case in writing, giving the main facts and the grounds for his decision.

### **Number of Higher Trial Board**

On being notified of the appeal to the Board of Arbitration, said appeal may be heard by the chairman, as representative of the Board, if both parties agree to it and it is acceptable to him. He shall, however, have the right to call for the full Board if in his judgment the situation requires it. In the event that the representative of the Board of either party is unable to attend a Board meeting, such party, may at its discretion, furnish a substitute.

### **Hearing, How Conducted**

The chairman shall determine the time and place of meeting and shall notify all the parties in interest. Each party shall prepare the case in advance, and have its testimony, evidence, and facts in readiness for the hearing. The Board shall give each party ample opportunity to present its case, but shall be the judge of procedure and shall direct the hearing as to its order and course. After giving an adequate hearing of the evidence and arguments the Board shall render its decision in writing, and shall furnish copies to the chief deputies of each party and to the chairman of the Trade Board. In the event that the Board is unable to reach a unanimous decision, the decision of a majority shall be binding.

### **Motions for Rehearing**

The Board may after a reasonable time grant a rehearing of any decision, if, in its judgment, there appears sufficient reasons for doing so. Decisions are to be regarded as the Board's best solution of the problem offered to it at the time of hearing, but as the problem changes with time and experience it is proper there should be afforded a reasonable opportunity for rehearing and review. Motions for a rehearing shall be made in writing, and shall set forth the reason for the request.

### **Enforcement of Decisions**

All decisions, whether of deputies, Trade Board, or Board of Arbitration, shall be put into execution within a reasonable time,

and failure to do so, unless for explainable cause, shall convict the delinquent party of disloyalty to the agreement. The party in error shall be notified of the charge, and suitable discipline imposed. The chief deputy of each party shall be held responsible in the first instance, for enforcement of decisions or adjustments herein referred to, and shall be held answerable, primarily, to the Trial Board.

### SECTION III

## Rates and Hours

### Schedules of Piece Work Rates

The prices and rates of pay that are to be in force during the life of this agreement are set forth in the schedules prepared for that purpose, duly authenticated by the proper signatures, and which are made a part hereof.

### Hours of Work

The hours of work in the tailor shops shall be forty-nine per week, with the Saturday half holiday.

### Minimum Wage

The minimum wage scale in the tailor shop shall be as follows:

	1st	2nd	3rd
	month	month	month
Machine operators (male and female)...	\$ 5.00	\$ 7.00	\$ 9.00
Women in hand work sections.....	5.00	6.00	8.00
Men, 18 years and over, not operators...	8.00	10.00	12.00
All men not included in above.....	8.00	9.00	10.00
Inspector tailors (men).....	16.00		

### Overtime

For work done in excess of the regular hours per day, overtime shall be paid to piece workers of 50% in addition to their piece work rates; to the week workers at the rate of time and a half; no work shall be allowed on Sundays or legal holidays. Christmas, New Years, Decoration Day, Fourth of July, Labor Day and Thanksgiving Day shall be observed as holidays.

## **Week Workers' Scale**

It is agreed that the question of classified wage scale, and periodical increase of pay for service, shall remain in the hands of Messrs. Mullenbach, Campbell and Marinpietri, to whom it was referred by the Conference Committee, until they are ready to report.

The week work schedule as agreed on by the committee, which has been accepted and signed by both the parties hereto, is hereby made a part of this agreement, subject to any changes that may be made as provided for above.

## **Piece Rate Committee**

Whenever a change of piece rate is contemplated the matter shall be referred to a specially appointed rate committee who shall fix the rate according to the change of work. If the committee disagree the Trade Board shall fix the rate. In fixing the rates, the Board is restricted to the following rule:

Changed rates must correspond to the changed work and new rates must be based upon old rates where possible.

## **Hour Rates for Piece Workers**

In case workers are changed from piece to hour work, the hour rates for such piece workers shall be based on their earnings on piece work.

## **Changing Operations**

In the event a piece worker is required to change his mode of operation so that it causes him to lose time in learning, his case may be brought to the Rate Committee for its disposition.

### **SECTION IV**

## **Preference**

### **The Preferential Shop**

It is agreed that the principle of the preferential shop shall prevail, to be applied in the following manner:

Preference shall be applied in hiring and discharge. Whenever the employer needs additional workers, he shall first make application to the union, specifying the number and kind of workers

needed. The union shall be given a reasonable time to supply the specified help, and if it is unable, or for any reason fails to furnish the required people, the employer shall be at liberty to secure them in the open market as best he can.

In like manner, the principle of preference shall be applied in case of discharge. Should it at any time become necessary to reduce the force in conformity with the provisions of this agreement the first ones to be dismissed shall be those who are not members of the union in good and regular standing.

### **Discipline of Union Members**

The Trade Board and Board of Arbitration are authorized to hear complaints from the union concerning the discipline of its members and to take any action necessary to conserve the interests of the agreement. The members referred to herein are those who have joined, or who may hereafter join, the Amalgamated Clothing Workers of America.

### **Preference in Transfers**

If it becomes necessary to transfer workers from one shop to another, the non-union workers shall be the first to be transferred, unless at request of the foreman, union workers are willing to go.

Or if it becomes necessary in the judgement of the company to transfer a worker from a lower to a higher paid section or operation, it is agreed that union workers shall have preference in such transfers. Provided, that nothing herein shall be construed to be in conflict with the provision relating to transfer for discipline and, provided, that they are qualified to perform the work required and that their departure from their section does not work to the disadvantage of that section.

### **Overcrowding of Sections**

Overcrowding of sections is important in this agreement as the point at which the provision for preference becomes operative. It is agreed that when there are too many workers in a section to permit of reasonably steady employment, a complaint may be lodged by the union, and if proved, the non-union members of the section, or as many of them as may be required to give the needed relief, shall be dismissed. For the purpose of judging the application of



preference the Trade Board shall take into consideration the actual employment condition in the section, as to whether there are more people employed at the time of complaint than are needed to do the work, and whether they, or any of them, can be spared without substantial injury to the company. If it is found that the section can be reduced without substantial injury, the Trade Board shall enforce the principle of preference as contemplated in the agreement.

### **Avoidance of Injury**

Among the things to be considered in the enforcement of preference are the needs of maintaining an adequate balance of sections, of the requirements of the busy season, of the difficulty of hiring substitutes, and the risk of impairing the efficiency of the organization. The claims for enforcement of preference and for avoidance of injury to the manufacturing organization are to be weighed by the Trade Board, and the interests of both claims safeguarded as far as possible, the intention being to enforce preference so far as it can be done without inflicting substantial injury on the company.

### **Preference of Seniority**

If in order to properly balance sections, a reduction of force be required greater than can be secured by the laying off of a non-union worker as provided for herein, then there may be laid off those who are members of the union in the order of their seniority who have been in the employ of the company for a period of six months or less, provided that any exceptionally efficient worker, or any especially valuable member of the union, may be exempted from the rule of seniority. Provided, also, the company shall give notice to the chief deputy of its intention to discharge under this clause, and if he fails to agree the matter shall be referred to the Trade Board.

## **SECTION V**

### **Working Conditions**

#### **Discipline**

The full power of discharge and discipline remains with the company and its agents; but it is understood that this power should

be exercised with justice and with due regard to the reasonable rights of the employe, and, if an employe feels that he has been unjustly discharged, he may have appeal to the Trade Board, which shall have the power to review the case.

Every person suspended shall receive a written notice, directing him to appear at the office of the company for a decision. Every suspension notice properly presented to the discipline officer of the company must be disposed of within six working hours from the time of its presentation and a definite decision announced to the suspended person.

### **Stoppages**

In case of a stoppage of work in any shop or shops, a deputy from each side shall immediately repair to the shop or shops in question.

If such stoppage shall occur because the person in charge of the shop shall have refused to allow the people to continue work, he shall be ordered to immediately give work to the people, or in case the employes have stopped work, the deputies shall order the people to immediately return to work, and in case they fail to return to work within an hour from such time such people shall be considered as having left the employ of the corporation, and shall not be entitled to the benefit of these rules.

### **Detention in Shop**

Workers shall not be detained in the shops when there is insufficient work for them. The company or its agent shall exercise due foresight in calculating the work available, and as far as practicable shall call only enough workers into the factory to do the work at sight. And if a greater number report for work than there is work for, those in excess of the number required shall be promptly notified and permitted to leave the shop. The work on hand shall be divided as equally as may be between the remaining workers.

### **Complaint Slips**

Before or at the time of entering any complaint against any employe in the complaint book said employe shall be notified thereof so he may have the opportunity of notifying a deputy of the Board and have said complaint investigated.

## **Lay-Offs**

Workers who are dismissed may be given lay-off memoranda allowing them to return to their shops or factories, trimming or cutting rooms, when there is need for their services. Provided, this clause shall not be construed to give such worker precedence over union members, or to interfere in any way with the provision for preference in hiring.

## **Transfer of Employees**

The company has the right to transfer employees for purposes of administration or discipline, subject to review by the Trade Board. If the Board finds that any transfer is being made to lower wages, or for any discrimination or improper purpose, or if injustice is being done the worker by the transfer, the Board may adjust the complaint.

## SECTION VI

# **General Provisions**

## **Lay Off of Workers**

No union member who is a permanent worker shall be laid off in the tailor shops except for cause, whether in the slack or busy season, except as provided herein. Cause for temporary lay off may be alternation of working periods in slack times, reorganization or reduction of sections, lawful discipline, and such other causes as may be provided for herein or directed by the Trade Board.

## **Co-Operation to Abolish Waiting**

The company and the deputies have agreed to co-operate together to abolish all unnecessary waiting in the shops.

## **Division of Work**

During the slack season the work shall be divided as near as is practicable among all hands.

## **Abandonment of Position**

Whenever any employe shall have absented himself from his accustomed place without giving an acceptable reason to the foreman

or other officers in charge of his work before the end of the second business day of his absence, the employer may consider his position forfeited. Notice of absence and reason therefor must be given to foreman by messenger, mail or telephone.

### **Abolishment of Section**

When sections are abolished, the company and its agents shall use every effort to give the displaced workers employment as much as possible like the work from which they were displaced, within a reasonable time.

### **Sickness**

Any workers who are absent on account of sickness shall be reinstated in their former positions if they return within a reasonable time.

### **Trade Board Members**

Complaints against members of the Trade Board as workmen are to be made by the foremen to the Trade Board. Any action of any employe as a member of the Trade Board shall not be considered inimical to his employment with the corporation. No member of a Trade Board shall sit on a case in which he is interested, or to which he is a party.

### **Union Membership**

The provisions for preference made herein require that the door of the union be kept open for the reception of non-union workers. Initiation fee and dues must be maintained at a reasonable rate, and any applicant must be admitted who is not an offender against the union and who is eligible for membership under its rules. Provided, that if any rules be passed that impose an unreasonable hardship, or that operate to bar desirable persons, the matter may be brought before the Trade Board or Board of Arbitration for such remedy as it may deem advisable.

### **The Old Agreement**

The provisions of the old agreement and the decisions based thereon shall be regarded as being in force except as they may be modified by, or are not in conflict with the provisions of the present agreement.

## SECTION VII

**Loyalty to the Agreement**

Experience suggests that there are certain points of strain which it would be wise to recognize in advance and to safeguard as far as possible. Among the points to be safeguarded are the following:

1. When dissatisfaction arises over change of price or working conditions. It is believed that the agreement provides a remedy for every such grievance that can arise, and all complainants are urged and expected to present their cases to the proper officials and await an adjustment. If any one refuses to do this, and, instead, takes the law in his own hands by inciting a stoppage or otherwise foments dissatisfaction or rebellion, he shall, if convicted, be adjudged guilty of disloyalty to the agreement and be subject to discipline by the Trade Board.

2. Strain may arise because of unsatisfactory personal relations between workers and officials. The company's officials are subject to the law as are the workers, and equally responsible for loyalty in word and deed, and are subject to discipline if found guilty of violation. Any complaints against them must be made and adjudicated in the regular manner. They are to respect the workers and be respected by them in their positions, and supported in the proper discharge of their duties. Any one indulging in improper language or conduct calculated to injure them or to break down their authority in the shop shall be adjudged guilty of disloyalty and disciplined accordingly.

3. Officials of the union are equally under the protection of the agreement when in the exercise of their duties as are the officials of the company, and any words or acts tending to discredit them or the union which they represent, or which are calculated to injure the influence or standing of the union or its representatives shall be considered as disloyalty to the agreement and the offender shall be subject to discipline by the Trade Board.

Provided, however, that no reasonable criticism or expression of disagreement expressed in proper language shall be deemed a violation within the meaning of this section.

4. If any worker shall wilfully violate the spirit of the agreement by intentional opposition to its fundamental purposes and es-

pecially if he carry such wilful violation into action by striking and inciting others to strike or stop work during working hours, he shall, if charge is proven, be subject to suspension, discharge or fine. Provided, that if a fine is imposed its amount shall be determined by the chairman of the Trade Board and shall not be less than \$1.00 or more than \$5.00 for each offense.

5. If any foreman, superintendent or agent of the company shall wilfully violate the spirit of this agreement and especially if he fails to observe and carry out any decision of the Trade Board or Board of Arbitration, he shall, if charge is proven, be subject to a fine of not less than \$10.00 or more than \$100 for each offense, at the discretion of the chairman of the Trade Board.

## SECTION VIII

### **Cutting and Trimming Departments**

The cutting and trimming departments shall be subject to the general provisions of this agreement, and to the bases and provisions of the old agreement, except as they may be modified by, or found to be in conflict with, the special provisions agreed on for these departments. It is understood that these special provisions are intended to change certain features of the old agreement, and if they are found to be in conflict, the new provisions are to be considered as the guide of practice, and as representing the latest and, therefore, the most authoritative expression of the wills of the parties hereto. The new special provisions are as follows:

1. The principle of preference as applied in the cutting and trimming rooms shall be as before, except that the clause relating to cutters who are exempted from union obligations is expressly defined as being strictly limited to the individuals now on the exemption list. Should the number on that list be for any reason reduced, it is understood that no other cutters and trimmers can be added.

2. The company shall not reduce the wages of any cutter. The company shall report to the commission all failures of cutters to produce their quota of work when in its judgment the delinquency is not caused by the conditions of the work. The commission shall investigate the matter and advise with the cutter concerning it. At the end of a period sufficiently long to determine the merits of the case, the cutters'



commission shall, if it deem necessary, find measures to discipline cutters to conform to their production. In judging the merits in such instances, the commission shall use the principle of comparative efficiency.

3. All cutters whose present wages are less than \$26.00 per week shall receive an increase of \$1.00 per week. This increase shall not be taken into account by the commission in calculating the quota of work required by such cutter.

4. The company shall prefer men now in the trimming room when increasing the number of apprentice cutters.

5. The salaries of experienced cutters who are employed temporarily shall for the first two weeks be at a rate not less than the salaries they received in their last position. After two weeks, the temporary cutters shall be paid on the same basis as the regular men, their salary to be fixed by the cutters' commission on the basis of their production, and their comparative efficiency.

6. The company shall continue the practice of paying cutters for Christmas, New Years, Decoration Day, Fourth of July, Labor Day and Thanksgiving Day.

## **Paper Cutting Department**

All men who cut paper patterns shall be members of the union; except that, by special agreement, one man, Mr. Lindsay, may be exempted from such requirement, and shall be added to the existing exempted group.

The three apprentices now in the paper cutting department shall have the status, privileges and protection of the regular cutting room apprentices, including the right to learn all branches of the trade, and be subject to the same requirements and provisions. The ratio of apprentices to cutters in the paper cutting department shall not exceed that which obtains now, namely, three apprentices to seven permanent cutters.

The company may employ such other boy help in this department as is needed, and such boys, may at its option, be promoted to positions as apprentices when vacancies arise, but not in excess of the total number of apprentices provided for in the agreement.

Permanent graders employed in the grading department may work at paper cutting temporarily when there is not sufficient work in their own department. Boys, who are not apprentices, shall not take

the places of blockers in any permanent manner, but they may for short times, to fill odd unemployed hours, be permitted to try to do blocking in the slack seasons.

## **Damage Department**

All employees in the damage department who recut parts of garments shall be members of the union or exempted men. The manager of the department and helpers who do not cut parts shall not be members of the union.

## **Trimming Department**

1. All men now on the trimmers pay roll who are receiving not to exceed \$15.00 are to be increased \$2.00 per week. All men receiving a weekly wage of over \$15.00 and not exceeding \$20.00 shall receive an increase of \$1.00 per week. Except that apprentice trimmers having been employed less than 6 months are to receive an increase of \$1.00 per week.

2. The following periodical increases shall be granted during the term of this agreement: Men receiving under \$12.00 shall receive an increase of \$1.00 per week every three months until their wages shall be \$12.00 per week. Men receiving over \$12.00 and less than \$18.00 shall receive an increase of \$1.00 every six months until their wages shall be \$18.00 per week. Men receiving over \$18.00 per week and less than \$20.00 shall receive an increase of \$1.00 per week every year until their wages shall be \$20.00 per week.

3. All men starting to work on the band-saw machines shall receive not less than \$18.00 per week and shall receive an increase of \$1.00 per week every six months until their wages are \$20.00. Thereafter, they shall receive an increase of \$1.00 per week every year until they reach the rate of \$24.00. No man shall be assigned to the band-saw machine permanently until they have been employed in the trimming room two years.

4. So far as practicable, the apprentices in the trimming room shall begin on their work on the lower grades of the trade and shall be advanced gradually to the more difficult ones.

5. Apprentices shall not be permanently transferred to work requiring the use of any electric machines until they have been employed for one year or more.

6. The wages of experienced men employed shall be determined in the same manner as in the cutting room.

7. The jack boys and canvas pickers are to be under the jurisdiction of the union, with this express provision: That these two sections are not to be under the agreed scale for trimmers, but are to be subject to a special scale of wages, which scale is to be subject to the decision of the board of arbitration.

### Signatures to this Agreement

#### FOR THE BOARD OF ARBITRATION

J. E. Williams, *Chairman*

W. O. Thompson, for the A. C. W. A.      Carl Meyer, for H. S. & M.

#### FOR THE TRADE BOARD

James Mullenbach, *Chairman*

#### FOR HART SCHAFFNER & MARX

Harry Hart, *President*

Joseph Schaffner, *Secretary*

Max Hart, *Vice-President*

Mark W. Cresap, *Vice-President*

Earl Dean Howard

Milton A. Strauss

Gilbert L. Campbell

A. M. Levy

Samuel Browne

#### FOR THE AMALGAMATED CLOTHING WORKERS OF AMERICA

Sidney Hillman, *President*      A. D. Marimpietri, *President Joint Board*

Samuel Levin, *Deputy Local 39*

Harry Wolchnovesky, *Vice-President Local 61*

Morris Spitzer, *President Local 144*

Nathan Garbut, *Recording Secretary Local 152*

John Katilius, *Deputy Local 269*

Edward Anderson, *Deputy Local 61*

Joseph Glickman, *Deputy Local 152*

Vincent Pachkauskas, *President Local 269*

Frank Rosenbloom

Louis Taback

Sam Rissman

Hyman Isovitz

Robert Cunit

Frank Petrick

Sam Diamond

Joe Kaminsky

## The Experience of Hart Schaffner & Marx with Collective Bargaining

(Prepared for the Federal Industrial Relations Commission  
as a part of testimony for the hearing at  
Washington, April, 1914.)

During the past four years, this Company has concerned itself very deeply in developing its relations with its employees. Labor disturbances brought keenly to our attention the necessity of having the good will of the workers in order that we might maintain and preserve the good will of our customers and insure the stability of our business.

We are glad to give an outline of our experience, believing it has yielded results in the form of certain principles of policy and action, which may be helpful in the promotion of industrial peace.

In making this statement we are particularly concerned that the formal and external features of our plan shall not be confused with the real and vital substance of the arrangements, to the neglect of the spirit and of the principles which are in reality responsible for whatever progress we have made.

After an opportunity of several years to study causes and effects, we are convinced that the prime source of difficulty was a lack of contact and understanding between our people and ourselves. The failure to adjust petty grievances and abuses became the cause of irritation entirely disproportionate to their importance when taken singly, but which in accumulation became the main ground for complaint.

There was no special complaint against the hours of work, which were fifty-four per week, and which have since been reduced to fifty-two. The physical working conditions were good and in fact very far advanced compared with the general conditions in the industry. There was a general demand for higher wages, but we

have always looked upon this as an accompanying demand rather than a first cause of difficulty.

A settlement was reached by an agreement to arbitrate, one arbitrator to be named by each side and the two to choose a third. It was not possible to agree upon the third member and the efforts to arbitrate were started with only the two partisan men on the board. This proved to be a good thing. For the time being it forced us to settle matters by agreement and compromise rather than by arbitrary decision, and this method has become a distinctive feature of the whole system. A third arbitrator was eventually chosen, and he is a man peculiarly capable of aiding in creating sympathetic understanding on the part of all.

Favorable results did not appear at once, but were the natural and legitimate effects of various devices introduced to meet difficult situations as they arose, and of certain principles of fair dealing, into harmony with which we have attempted to bring our business policies.

In addition, the Company created a labor department. A university professor, trained in economics, was engaged to study the situation and draft a plan for promoting better relations with our employees. At the beginning the task appeared stupendous, as grievances were highly magnified and exaggerated by frequent reiteration of the more radical leaders for the purpose of keeping the war spirit at a high temperature.

This new department, headed by Professor Earl Dean Howard of Northwestern University, gradually assumed certain functions in which the workers had a direct interest and administered them with the main purpose always in view. The chief duties of the labor department now are: the maintenance of a system for the prompt discovery and investigation of any abuses or complaints existing anywhere among the employees; the recommendation of measures designed to eliminate the source of the complaint; protecting the Company's interests in the Board of Arbitration and the Trade Board (a court of first instance established to adjust complaints and interpret the agreements); negotiating with the business agents of the unions and satisfying their demands as far as possible; administering all discipline for all the factories (all executives have been relieved of this function); general oversight of all hiring; the

maintenance of hospital and rest rooms; the administration of a charity fund for unfortunate employees, of a loan fund, and of the Workman's Compensation Act; responsibility for the observance of the state and municipal laws regarding child labor, health and safety, also for the strict observance of all agreements with the unions or decisions of the two Boards; education of the foremen and people in courtesy, patience, mutual helpfulness and other peace-producing qualities; suggesting devices for the amelioration of hardships incidental to the industry and for the higher efficiency of operating.

Industrial peace will never come so long as either employer or employee believe that they are deprived of rights honestly belonging to them. Our experience has taught that the business man in authority is a trustee of various interests, including his own, and if he administers his business so as to conserve and harmonize these interests to the best of his ability, he is most likely building an enduring success.

A labor department, critical of everything touching the interests of the workers, a Trade Board and a Board of Arbitration constantly reviewing and discussing policies and methods, protect us against ourselves and make it impossible to violate or overlook the rights of the employees. These agencies undoubtedly create limitations which at times seem vexatious, but we have found that, in the long run, legitimate progress has been helped rather than hindered thereby. Innumerable cases have arisen where we have been obliged to change plans and policies much against our will yet where the final results were better because of the change.

Arbitration and conciliation should be applied to all departments of a business wherever there is a conflict of interest. If nothing more, it insures exhaustive discussion of every matter of importance, gives everybody an opportunity to express his opinions, frequently brings to light valuable suggestions, and makes possible a higher degree of co-operation and team-work. It is a method to be employed continuously to secure harmony and satisfaction. Patience and self control are essential in administering a business on this basis. It is human nature to resent interference and to desire unrestricted liberty of action, but these conditions are not necessary and are often inimical to true success. Few men can use unlimited power wisely and no wise men will dispense with checks which tend



to keep him in the right path; certainly, he will approve of checks calculated to restrain his agents from arbitrary and unjust acts toward fellow-employees.

The application of these ideas to the labor problem, especially as a help to the employer in deciding what attitude to take toward trade unionism, has produced favorable results with us. If the employer voluntarily limits his own authority and agrees to conduct his business according to the rule of reason and even-handed justice as interpreted by an outside authority, such as an arbitration board, he must insist that the organized employees submit to the same limitation, otherwise his sacrifice will be futile and his submission to injustice cowardly.

Unions should be recognized and favored in the same proportion as they manifest a genuine desire to govern themselves efficiently. All agreements should be so drawn as to release the employer from his obligations whenever the unions fail to observe theirs. Arbitration boards, officials in charge of labor matters, and union leaders should direct their operations and make their decisions with the one purpose always in mind, namely, to make it profitable and easy for all parties to acquiesce in the rule of reason and justice, and dangerous and difficult for them to attempt to get unjust advantage. We did not realize and we believe the majority of employers do not yet realize the extent to which the attitude and conduct of their organized employees reflect their own policies and conduct. Strict adherence to justice, especially if interpreted to the people by a board in whom they have confidence, will gradually educate them and their leaders to see the advantage of this method. It is fortunate for the employer if his own employees have an autonomous organization, influenced as little as possible by outsiders.

In our own business, employing thousands of persons, some of them newly-arrived immigrants, some of them in opposition to the wage system, hostile to employers as a class, we have observed astonishing changes in their attitude during three years under the influence of our labor arrangements. They seem to understand that they can rely upon promises made to them by the Company; that all disputes will be finally adjusted according to just principles interpreted by wise arbitrators.

Disciplinary methods are a prolific source of dispute with em-

ployees and it is difficult to avoid offending their sense of justice, especially if they are not fully informed of all the facts in the case and hear only one side. Moreover, petty officials are not likely to show good judgment in administering disciplinary power or to have correct theories about it; very frequently they are tempted to satisfy private dislikes under pretense of disciplining. We regard it as an essential element in maintaining industrial peace to centralize the administration of discipline in one official having no interest except to maintain the efficiency of the shops without disturbing the harmony and good will of the people.

Our theory of discipline is that it should be as mild as possible consistent with effectiveness in securing the desired results. Complaint memoranda are given as warnings by the foreman; if these are disregarded, suspension slips are next given which remove the offenders from the pay-roll until reinstated by the discipline officer. An investigation is made, and, as a rule, the suspended person is restored to his position on probation. This method is continued until it becomes apparent that the employee is either hopelessly incompetent or insubordinate, whereupon a temporary lay-off or discharge may follow. Our Trade Board, composed of workmen and foremen, presided over by a neutral, outside chairman, will give a hearing to the case if requested, and may order a reinstatement or modification of the penalty. Appeal from this tribunal may be taken to the Board of Arbitration for final adjudication. In spite of its apparent complexity, the administration of discipline has become very satisfactory to both sides and very few cases even come before the Trade Board, and for many months none have been appealed.

Much depends upon the leaders of the workers. We have had some experience with misinformed, and self-seeking men who secured temporary influence over the people, but somehow they failed to thrive in the atmosphere of our arrangement. Some of these same men have been delivered of their worse qualities as they have learned the advantage of better methods of dealing. The system seems to work out a selection of the fittest candidates and trains them to become efficient leaders and executives, skilled in negotiation, in pleading and cross-examination before the judicial boards, in organizing, disciplining and leading the people. One of the leaders in particular developed a wonderful influence over all who came in contact with

him on account of his high ideals, his patience under trying circumstances, and his indomitable faith in the ultimate success of right method.

At the beginning of our experiment we believed that the labor union was a competitor for the good will of the people and that both could not have this good will at the same time; we feared that the union would get the credit for anything granted to the people, thus nullifying the good effect to the Company of any concessions or benefits given to them. Concessions wrung from the reluctant employer by the union through a Board of Arbitration, especially if the withholding of the concession seems contrary to the sense of justice of the workers, of course gain no good will for the Company.

Without some kind of organization among the people, there are no responsible and authorized representatives with whom to deal and the real interests of the people as they see them themselves are likely to be overlooked or disregarded. The chosen representatives are made to feel the dignity and honor of their positions so long as they deal fairly and reasonably; those who adopt a different policy invariably fail and retire with considerable loss of respect and prestige. Those whose motives are good and who can reason intelligently grow in the esteem of their fellows through their success in negotiation and arbitration. They appreciate the consideration shown them by the Company and the arbitrators and reciprocate by proclaiming the fairness of the Company.

One of the most important functions of our labor department is welfare work—giving advice and material assistance to unfortunate employees, improving the working conditions in the shops, maintaining rest rooms and libraries, etc.—but this is not done for the purpose of more easily depriving the workers of their right to be represented in all matters to which their interests are involved. Working men are quick to resent the substitution of favors for justice. Welfare work, however, in connection with general fair dealing is very effective in securing good will, especially if it increases the personal contact between the officials of the Company and the employees.

Not the least of the advantages we have derived from our system is the reaction of the ideas and ideals, first applied in the labor department, upon the other departments and particularly upon the executive staff of the manufacturing department. Inefficient methods

of foremen, lack of watchful supervision, and inaccurate information as to prevailing conditions on the part of higher executives; these could not long survive when every complaint brought by a workman was thoroughly investigated and the root-cause of the trouble brought to light.

The unexpected and indirect results of our labor policy in increasing the efficiency, reforming the conduct, and raising the intelligence of the executives coming into contact with the system have been as profitable and satisfactory as the direct result, i. e., the creation of harmony and good will on the part of the people toward the Company.

A summary of the essentials of the system which has produced such gratifying results in our institution would include: a labor department, responsible for industrial peace and good will of the employees, thereby of necessity fully informed as to their sentiments, their organizations, and really representing their interests in the councils of the Company; a means for the prompt and final settlement of all disputes; a conviction in the minds of the employees that the employer is fair and that all their interests are safeguarded; constant instruction of the leaders and people in the principles of business equity, thus gradually evolving a code accepted by all parties in interest, serviceable as a basis for adjustment of all difficulties; the development of efficient representation of the employees—honest, painstaking, dignified, reasonable, eager to co-operate in maintaining peace, influential with their people and truly representative of their real interests; a friendly policy toward the union so long as it is conducted in harmony with the ethical principles employed in the business and an uncompromising opposition to all attempts to coerce or impose upon the rights of any group or to gain an unfair advantage; and a management that guarantees every man full compensation for his efficiency and prevents anyone receiving anything he has not earned.

Briefly expressed, it is simply the natural and healthy relation which usually exists between the small employer and his half dozen workmen, artificially restored, as far as possible in a large-scale business where the real employer is a considerable group of executives managing thousands of workers according to certain established principles and policies.

HART SCHAFFNER & MARX.

## The Development of Government in Industry

By EARL DEAN HOWARD<sup>1</sup>

(Reprinted from the *Illinois Law Review* for March, 1916)

During the past five years, in several branches of the garment-making industries of New York and Chicago, certain principles for the adjustment of conflicting interests with employees by legal methods have been experimented with. This experience has suggested certain ideas and possibilities interesting to those who appreciate the growing danger of leaving the settlement of employer-employee controversies to the arbitrament of industrial warfare and who understand how, in other human relations, the crude method of force has been superseded by the legal method.

The protocol<sup>2</sup> in the cloak and suit trade, together with half a dozen similar protocols in other branches of garment-making in New York, the Rockefeller system of industrial representation in the Colorado mines, and the labor agreement of Hart, Schaffner & Marx<sup>3</sup> in Chicago, grew out of long and bitter strikes, severe enough on both sides to convince the parties thereto that the old system was intolerable. Complete domination by either side was impossible and intermittent struggles over the division of power were costly and unsatisfactory. The protocols and agreements provided a system of government to protect each side against the other.

Any system of government for the adjustment of human rela-

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1. Director of Labor for Hart Schaffner & Marx; Professor of Economics in the College of Liberal Arts and Professor of Banking and Finance in the School of Commerce, Northwestern University.

2. See Bulletin of U. S. Bureau of Labor Statistics No. 144, March, 1914, entitled, "Industrial Court of the Cloak, Suit and Skirt Industry of New York City," by Charles H. Winslow.

3. See Monthly Bulletin of the Pennsylvania Department of Labor and Industry, August, 1915. "The Experience of Hart Schaffner & Marx with Collective Bargaining."



tions and conflicting interests by law rather than by force requires some devices to perform legislative, executive and judicial functions. Rules must be laid down and interpreted, administrative duties must be discharged, effective limitations and requirements must be placed upon individuals to secure co-ordination, and all questions in dispute must be authoritatively decided.

There is a strong tendency to enlarge the scope of political government so as to include also industrial government. Whether this shall grow into state socialism or whether private enterprises will be able individually or collectively to establish a satisfactory form of government, supplementary to political government, is one of these large interesting questions which may be decided within a generation or two. The solution may depend upon the ability of the employees to develop a constructive power and effective government among themselves.

Employers and those responsible for the prosperity of large enterprises are reluctant to lose any part of their control. When they discover that the power has passed from them, or when their government has failed to maintain place, they are then ready for experiment. The protocols and other experiments have always grown out of strikes, usually long and exhausting.

*Structure of Government.*—The first step is an agreement on constitution providing usually for a board of arbitration. Executive control is left in the hands of the employer but subject to the limitations of the agreement and the decrees of the board. The representatives of the employees, usually labor union officials, strive through the board to extend these limitations to inhibit all acts of the employer which the employees or their officials conceive to be of any disadvantage to themselves. The system resembles a constitutional monarchy.

The legislative function is usually inadequately provided for. New conditions arise to which the rules of the agreement and previous decisions are not applicable. The employer claims the right to legislate by administrative decree on the ground that he has all the authority not specifically relinquished in the agreement. The union officials urge the board to assume jurisdiction and by a decision create a precedent which has the effect of law. In practice legislation originates in several ways: (1) The constitution or basic agreement



entered into by the parties at intervals for definite terms and with which the decisions of the board of arbitration must harmonize; (2) administrative orders promulgated by the employer and subject to veto or alteration by the board of arbitration on the ground of unconstitutionality; (3) judicial decisions having the force of precedents by the board of arbitration in adjudicating complaints—"judge-made" law.

The judicial function is performed by the board of arbitration and inferior courts or committees, such as the Trade Board in the Hart Schaffner & Marx system, and the Committee on Immediate Action in the Suit and Cloak Protocol. Appeals may always be taken for final decision to the board of arbitration. Decisions are based upon the fundamental agreement, administrative orders which have not been challenged, precedent decisions, customs and practices in the industry.

The judicial boards and committees are composed of representatives in equal strength of employers and employees, presided over by a neutral arbitrator who casts the decisive vote. This neutral arbitrator has the opportunity to develop an extra-legal process of mediation by which the necessity of much litigation is avoided. It is usually stipulated that agreements reached by mediation do not create precedents, but apply only to particular cases in hand. The neutral arbitrator, if he have the ability and inclination, may in the course of his work by discussion and education establish standards of justice and fair dealing in the employer-employee relation acceptable to both sides. These may form a sort of unwritten constitution of great practical influence upon the harmonious operation of the enterprise. The possibility of disputes and conflicts is greatly reduced when the parties, acting in good faith, gradually approach agreement in their beliefs as to what is right and wrong action.

Industrial concerns which have adopted some form of industrial government such as here described find it advantageous to establish a department to supervise their relations with their employees and to represent them in litigation and negotiation. Positions are thus created for men who have been trained in economics, political science, law and business, and who have talent for negotiating, pleading, instructing and social service work.

In the five-year experience with the Hart Schaffner & Marx arrangement, most of the fundamental issues which arise in the employer-employee relation have been met and adjudicated. These typical cases have revealed principles which may some day help to form an established code of governing rules for industry and supplanting the present method of competitive bargaining and conflicts settled by economic strength.

*Opportunity to Work.*—The ordinary concept of the employer is that labor is a commodity purchasable as other commodities. He strives to get as much as he can as cheaply as possible. The job or opportunity to work is his private property and the workman has no claim upon it. The new principle gives the worker a right to his job which can be defeated only by his own misconduct. The job is the source of livelihood to the worker exactly as his capital is the source of livelihood to the capitalist. In the slack season whatever work there is shall be divided equally among all as far as practicable.

In cases of discharge, the burden of proof is upon the employer to show that such discharge is necessary for the welfare of the organization. He must also show that any alternative action involving less hardship on the individual is inadequate.

So long as there is an adequate supply of labor available in the skilled trades, the employer must not introduce an unreasonable number of apprentices into the trade.

In the hiring of new help, preference must be given to members of the union which is a party to the agreement, provided such members are competent and of good records. To maintain its prestige with the people, the union must be able to keep all its reputable members at work.

*Discipline.*—Disciplinary penalties must never be allowed as a means of discouraging the organization of employees into unions. The employees must have leaders, and some of these, lacking experience and information, sometimes fail to distinguish between legitimate complaining and insubordination.<sup>4</sup> Discrimination on account of

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4. Under the protocol, piece-work prices are determined by bargaining between the individual employee and a shop-committee. A serious situation is created by the suspicion of the workers that the power of discipline is used to gain advantage in bargaining. There is no centralization and specialization of the discipline function there.

union activity is difficult to prove or disprove and is a favorite device for befogging a case. The difficulty is diminished by specializing the disciplinary function in one man who is free from suspicion of antagonism to the organization of employees.

Managers who are directly responsible for the efficiency of the shop should not be burdened with the responsibilities of discipline. This function is one of great delicacy. If badly or unskillfully performed it is a fruitful source of antagonisms and personal feelings, which is like sand in a complicated machine. If, however, it is handled with judgment and resourcefulness by an official who is detached from an immediate interest in the operations and who can look forward to ultimate results, the function presents great opportunities for gaining the respect and good will of the employees. Discipline cases afford the finest opportunities for educational work, both with worker and foreman.

So long as the offending employee is to be retained in the factory, any disciplinary penalty must be corrective and no more severe than is necessary to accomplish the best results for all concerned. Most offenders are victims of wrong ideals or mental deficiencies, the remedy for which is not punishment but help and instruction. Delinquencies in management can frequently be discovered and the manager or other executive may need the services of the expert discipline officer quite as much as the original offender. The efficiency of the discipline officer should be measured by the proportion of ex-offenders who have ultimately become competent and loyal friends of the company. It is his prime duty to prevent and remove from the minds of the people all sense of injustice in their relations with the employer, which is the fundamental cause of the bitterest industrial conflicts.

*Management.*—The great defect in autocratic governments is the lack of adequate and intelligent criticism. Autocratically-governed business enterprises suffer from the absence of their wholesome check. Organized employees represented by spokesmen who are protected in that function, together with a labor department responsible for the good will and welfare of the employees, constitute a critical check on bad management and the source of valuable suggestion for more efficient management. Piece-workers, especially, are vitally affected in their earnings by the quality and efficiency

of the management. Subordinate executives in the factory may conceal this inefficiency from their superior officers for a long time, but a system of free complaints makes this impossible.

*Standards.*—Lack of standards is probably the chief cause of disorder and conflicts, especially in the needle industries. This includes standards of workmanship, piece-work prices, conduct in the shop, and all points which involve the interest of the employee.

The primary tribunals or Trade Board should settle finally all disputes as to facts; appeals should be taken only when disputed standards are involved. Each case before the Board of Arbitration is an opportunity to establish one or more standards. Thus, unless the industry is one of great changes, the board will find the need for its services grow gradually less as both parties learn to be governed by standards. The immense value to an industry of established standards should reconcile the parties to the time consumed in deciding some comparatively unimportant case which happens to afford opportunity for creating a standard. The board in such cases should get expert and technical testimony from all sources through witnesses and committees of investigation, so that the work is done once for all.

*Unionism.*—This system of government assumes adequate representation of the employee; such representation requires organization and leadership. There are many advantages where the employer is large enough to be independent of associations of employers, and where the employees' organization is limited to employees of the one company. At the outset, the workingmen are likely to belong to national unions, and the company to be a member of a trade association, especially if the experiment begins at the close of an industrial conflict or general strike.

Many of the traditional principles and practices of unionism are developed out of a state of militancy and are not adapted to a state of peaceful government, hence they are obstructive. Unless the employees as well as the employer agree that the rules and decrees of the Board of Arbitration shall prevail over any rules or orders of either a national union or a trade association; that the government which they are establishing shall receive their undivided, unhyphenated allegiance; the scheme will be unsound.

These difficulties do not exist when the Board of Arbitration

has jurisdiction coextensive with the association and union and where the entire membership of both groups submit themselves to its government. The combination of local unions into great national and international federations was a war measure and loses its *raison d'être* when a system of representative government is established.

When the organization of employees uses its strength to promote the reign of law and order, the employer has an interest in helping to develop its strength. So long as he has faith in this system, he cannot then be hostile to the organization.

The "closed shop" issue which is responsible for so much industrial warfare has been eliminated in some of the needle industries by the device of the "preferential shop." The issue has its cause in the difficulty of the unions in maintaining their membership and collecting money from members. The unions use their power over the employer to force him to maintain the strength of their organization by penalizing persons who are disinclined to submit to the rule of the union officials. The conscientious employer has moral scruples against forcing his employees to be members of a union against their will and to submit to the authority of union officials.

The preferential shop idea is a compromise by which the greatest dangers and injustices of compulsory union membership are avoided and yet by which there is a distinct advantage to members of the union. Union members have preference when new people are needed and, when the force must be reduced, they are retained in preference to others.

Under this system the danger of the abuse of arbitrary powers by union officials as well as by employers is much reduced. Both must submit in equal degree to the board of arbitration, and all their actions may be reviewed by that body. The principles of right action as laid down by the board govern them equally.

*Wages.*—We are so habituated to the idea of labor as a purchased commodity or service, that it seems to us quite natural for the price of it to be determined by the law of supply and demand through the bargaining process. When employees are unorganized, they are unable to bargain with a large employer on anything like equal terms; when they are organized, the bargaining may take the form of industrial warfare. Bargaining cannot be equitable and



fair unless either party has the right to withhold what he is offering to the other. This principle is so true that the courts and legislatures have been forced to legalize strikes and picketing, notwithstanding the tendency of these measures to subvert law and order and to jeopardize the right of person and property.

The dilemma is most acute in public utilities where the public interest is peculiarly affected; therefore, every possible means is being tried to introduce government in the form of voluntary arbitration. Upon the success of this method may depend the future necessity of using the authority of the state to establish and enforce standards by compulsion in at least some instances.

Whether voluntary government can succeed or not will turn largely upon the possibility of discovering principles of manifest justice from which practicable standards may be deduced. The great need is therefore a principle applicable to wage controversies. Much depends upon a satisfactory answer to the sphinx-riddle, what is a just wage?

In the system here described, the rate of wages and piece-work prices existing at the beginning of the agreement was accepted as the basis. Certain horizontal advances were granted to prevail during the term of the agreement. At the end of that period, the whole question is reopened. If both parties agree to arbitrate this major question as they do all others, the burden is thrown upon the Board of Arbitration of finding some governing principle from which a rational decision may be derived.

The student of political science will find in the development of voluntary industrial government an interesting contribution to his science. Just as the common law of England evolved from self-imposed customs and regulations in the interest of harmonious dealing and relations, so here we may observe an organic growth of industrial government, establishing itself alongside the federal and state jurisdictions. Perhaps this will be the means of escape from the dilemma of domination by a ruling over a subject class on the one hand, and, on the other, a chronic state of civil warfare with the classes perpetually struggling for advantage, with small consideration for the public welfare.



## A New Field for Systematic Justice

(Editorial Note By DEAN JOHN WIGMORE of Northwestern University Law School in *Illinois Law Review* for March, 1916.)

Few laymen, and fewer lawyers, stop to reflect that the system of legal justice keeps changing slowly, from epoch to epoch, in its contents—the subjects of its rules and dispensations. Mr. Higgins' recent article in the *Harvard Law Review* (November, 1915), entitled, "A New Field for Law and Order," called attention to Australia's Court of Conciliation and Arbitration and its body of decisions. But already, spontaneously, in our own country, work in the same field has begun.<sup>1</sup> Mr. Howard's article in the present number of the *ILLINOIS LAW REVIEW* is the first to set forth for lawyers the good beginning already made. Lawyers should awaken to this coming enlargement of the field of systematic justice.

Look back over six centuries. In the late Norman times there is great bulk of learning on the courts' dealings with *essoins*, *mort d'ancestor* and other obsolete matters. Later, wardships, homage and *primer seisin* fill the year books. Then for a while the law of treason absorbs a large place. Meantime, notes and bills of exchange make their appearance; tithe-law and copyholds begin to disappear. Estates in futurity begin to bulk large, and insurance, stock companies, copyrights and trademarks appear upon the stage. Compare any digest of the 1850s with Brooke's Abridgment of the 1500s; and one can hardly recognize the two as dealing with the same country's law. Yet the machinery of justice has been continuous; it is the grist that has gradually changed.

Can we imagine that the process of change has ceased in the

1. See also Julius Cohen, "Law and Order in Industry" (1915); Chas. H. Winslow, "Industrial Court of the Cloak, Suit and Skirt Industry of New York City" (Bull. No. 144, U. S. Labor Department, March 18, 1914).

1800s? Has not the same slowly shifting panorama been going past before our eyes, if we would only look? Should we not naturally expect to find new fields gradually entering the area of justiciable disputes—especially in an era of rapidly changing social and industrial conditions?

What are some of the obviously new classes of material?

In the region of family life, the wife's interests to protection have been furnishing much grist; and the child's interests, in juvenile court law. In personal rights, the injuries done by machinery have come to absorb nearly a third of the time of the courts. In property law, the stockholders of a corporation now furnish the material which was formerly afforded by the tenant *in capite* and the copyholder; the chattel mortgage takes the place of the old actions of debt.

And so, along the margin of the judicial stage, in the wings, we may expect to see still other material in formation, ready to be openly justiciable by the courts.

The most obvious of these is the subject of railroad service to the public. Nearly thirty years ago I made for the Massachusetts Railroad Commission a Digest of seventy-five pages, covering their rulings of the prior twenty years; the second edition by the present chairman of the board, has just appeared. Any one who consults it will see that its material is judicially treated, after the style of legal justice. That is, *general principles are laid down, for deciding particular cases*. E. g., the inhabitants of Smithville apply for a second morning train to Boston; the railroad argues that even the one train does not pay for itself in fares; the Board grants the application, on the ground that the town does need the train, and that the cost of running each particular train is not decisive to negative the duty to furnish adequate facilities. Here is the germ of a general principle; which in another case will be qualified or extended, until at last we have a complete legal principle for the decision of a general class of cases. All this has since become familiar to us in the rulings of the Interstate Commerce Commission. Whether that organ be *called* a court or not is immaterial; the fact is that it decides particular controversies by more or less general principles. Thus a new mass of material has been brought into the field of systematic justice.

The next mass of material due to arrive is that of industrial

controversies. Twenty years ago it seemed impossible that such things should be justiciable. Why? Because there were no general principles to lay hold of. The judge of the last hundred years feels at home in a copyright case, because he can invoke a number of principles with their sundry exceptions. But before *Miller v. Taylor* and *Donaldson v. Becket*, he would have felt lost. "Let these authors and publishers wrangle it out between themselves; the courts cannot help them; that is a question of the ethics or economics of their trade, about which we know nothing," such would have been the judge's thought. Where everything is arbitrary, how can the judges attempt to settle the dispute?

Such has been the helpless attitude of the courts towards industrial disputes. "Freedom of contract" relegated them all to the limbo of non-justiciable controversies.

But in Australia the experience in private arbitration had gone so far that finally the subject was handed over formally to a special court, where it now is. In our own country, the material is beginning to be worked over by a few private boards. This is what Mr. Howard's article recounts.

The significant thing is that *general principles are beginning to be formulated*. And the moment you have general principles, used for deciding particular cases, you have justice in the form of law, as distinguished from the arbitrary justice of a Turkish Caliph, or from private struggle decided by private force.

Gradually, as this system described by Mr. Howard is extended in other enlightened industrial institutions, and the body of experience with it is enlarged, the general principles with their numerous qualifications will become clearer and more accepted. The sanction of government, under one or another name for the court, will be granted. The community will approve. Industrial controversy will become as justiciable as property controversy.

And a new field will have been gained for systematic justice.

J. H. Wigmore

## Making Piece-Work Rates under Hart Schaffner & Marx Agreement

By JAMES MULLENBACH,  
Chairman Trade Board

Responsibility for making piece rates is lodged primarily in the Trade Board. For expediency the responsibility, however, has been turned over by the Trade Board to a Committee, known as the Rate Committee, and composed of three members, one representing the company, one representing the people, and the chairman of the Trade Board. As a matter of practice, the work of rate making is carried on almost exclusively by the two members representing the company and the people. While some cases are brought before the full committee, these cases are exceptional when compared to the number settled by the two members.

The agreement provides that in fixing rates the Board is restricted to the following rules: Changed prices<sup>1</sup> must correspond to the changed work and new prices must be based on old prices when possible.

Whenever a question of piece rate arises, it is taken up in the first instance by the two members of the committee and an attempt is made to reach an agreement. If an agreement is reached, a specification of the work to be performed and the rate to be paid is prepared and signed by both representatives without any further action. If, however, the two parties are unable to reach an agreement, the case is taken up with the full committee and an agreement reached, or a decision made fixing the rate and specification. If this decision is unsatisfactory to either party, the decision may be appealed to the Board of Arbitration.

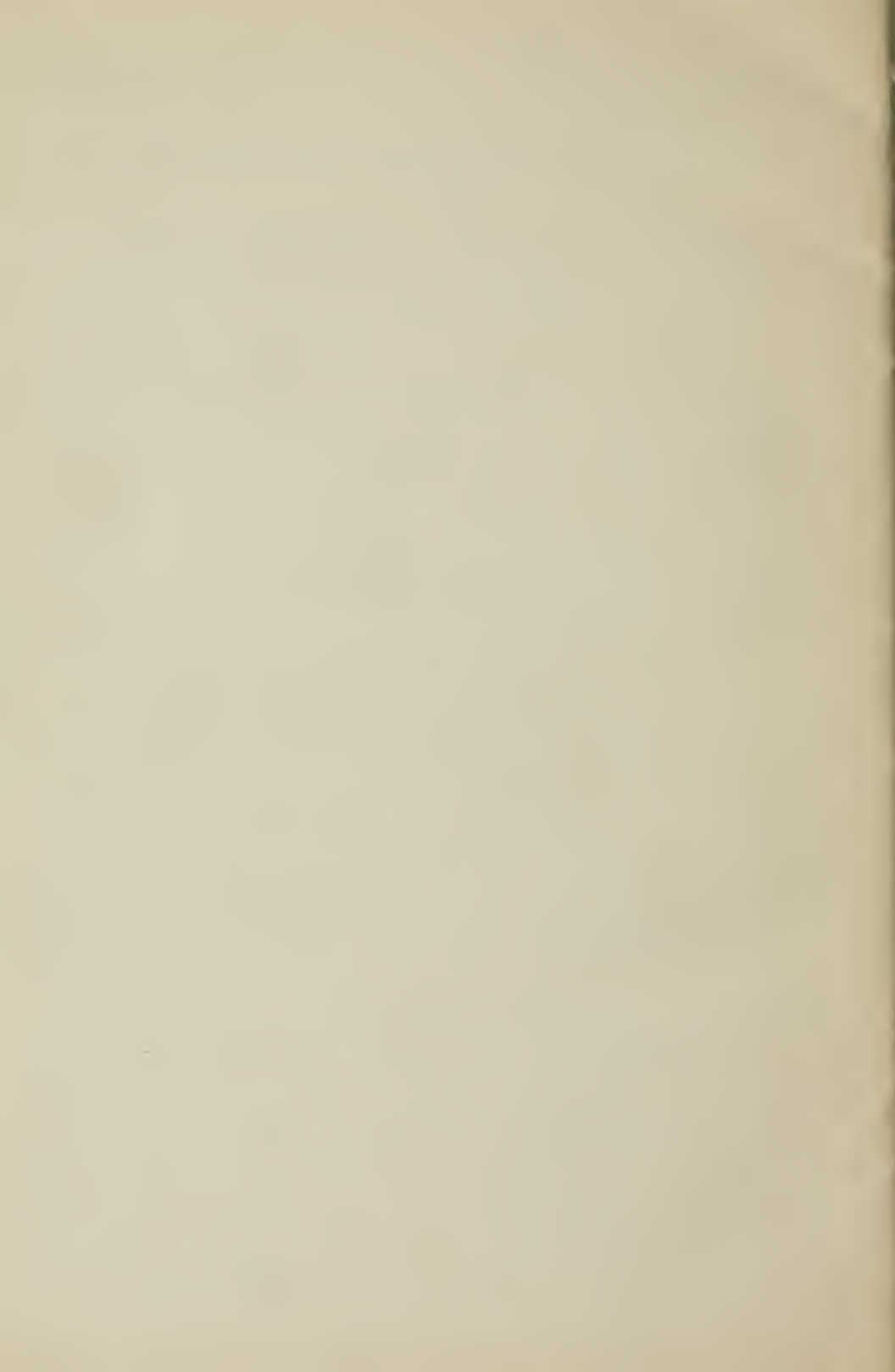
New rates are always provisional and temporary, and are subject to review after sufficient period of trial to determine their merit.

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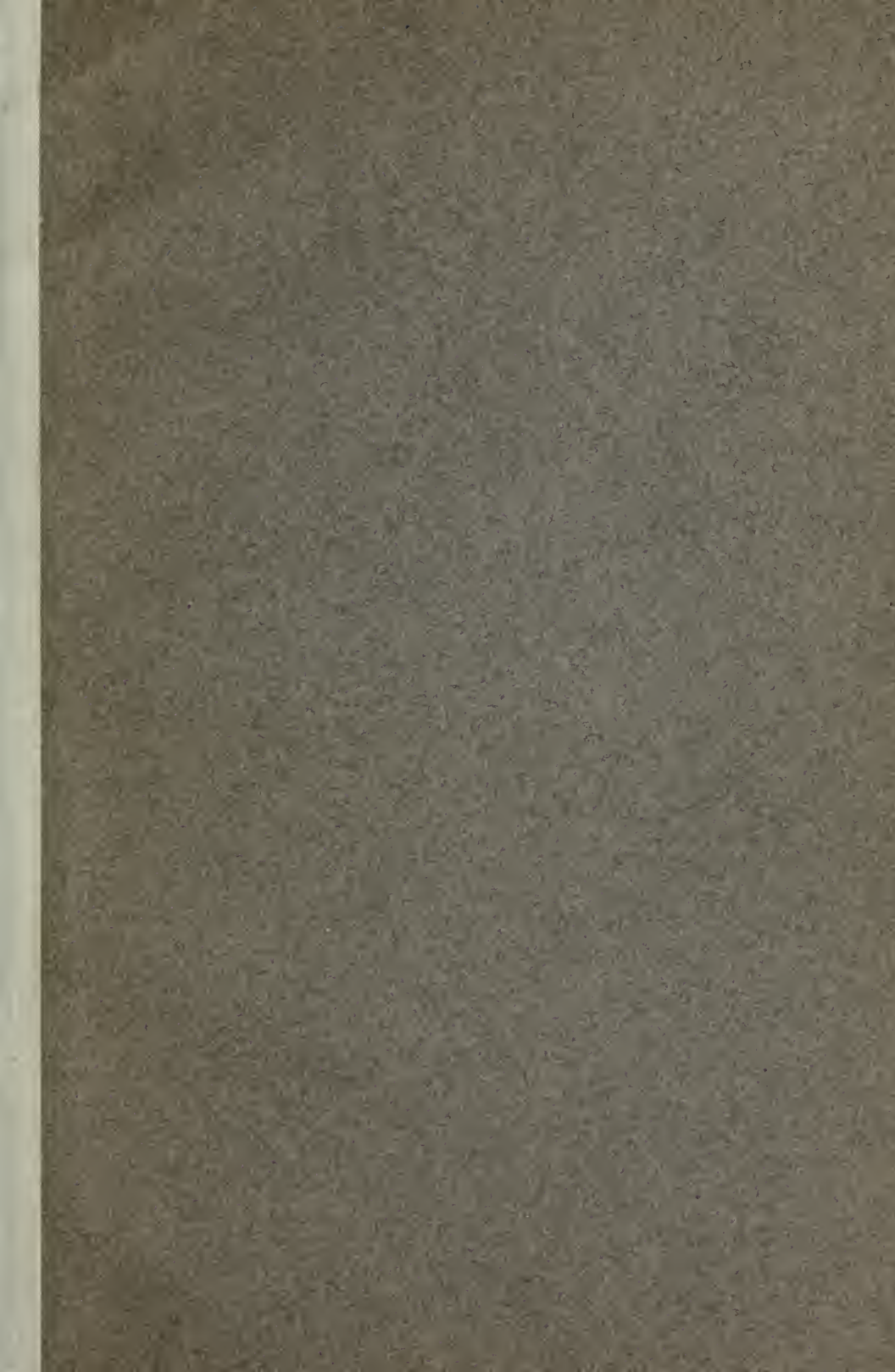
1. In earlier drafts of the agreement the word "price" was used in this connection.

The Committee seeks to make the temporary rate as nearly equitable as possible, both for its effect on the people and to save a repetition of the negotiation.

After the specification and rate have been authorized by the Rate Committee, there can be no alteration of the terms either by the company or the people without permission from the Rate Committee.







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